

FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE E. OTHER FINANCIAL BUSINESSES

CHAPTER 151. REGULATION OF MONEY SERVICES BUSINESSES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 151.001. SHORT TITLE. This chapter may be cited as the Money Services Act.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.002. DEFINITIONS. (a) This section defines general terms that apply to an applicant for or holder of a money services license issued under this chapter, regardless of whether the license is a money transmission license or a currency exchange license. Additional terms that apply specifically to money transmission are defined in Section [151.301](#). Additional terms that apply specifically to currency exchange are defined in Section [151.501](#).

(b) In this chapter:

(1) "Applicant" means a person that files an application for a license under this chapter.

(2) "Authorized delegate" means a person a license holder appoints under Section [151.402](#) to conduct money transmission on behalf of the license holder.

(3) "Bank Secrecy Act" means the Bank Secrecy Act (31 U.S.C. Section 5311 et seq.), and its implementing regulations.

(4) "Commission" means the Finance Commission of Texas.

(5) "Commissioner" means the Banking Commissioner of Texas or a person designated by the banking commissioner and acting under the banking commissioner's direction and authority.

(6) "Control" means ownership of, or the power to directly or indirectly vote, 25 percent or more of the outstanding voting interests of a license holder or applicant, and includes an individual whose ownership is through one or more legal entities.

(7) "Currency exchange" has the meaning assigned by Section [151.501](#).

(8) "Currency exchange license" means a license issued under Subchapter F.

(9) "Department" means the Texas Department of Banking.

(9-a) Repealed by Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 23, eff. May 24, 2019.

(9-b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 23, eff. May 24, 2019.

(9-c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 23, eff. May 24, 2019.

(10) "Executive officer" means a president, a presiding officer of the executive committee, a treasurer or chief financial officer, or any other individual who performs similar functions.

(11) "License holder" means a person that holds a money transmission license or a currency exchange license.

(12) "Location" means a place at which activity regulated by this chapter occurs.

(13) "Material litigation" means any litigation that, according to generally accepted accounting principles, is considered significant to an applicant's or license holder's financial health and would be required to be referenced in that entity's audited financial statements, report to shareholders, or similar documents.

(14) "Money services" means money transmission or currency exchange services.

(15) "Money transmission" has the meaning assigned by Section [151.301](#).

(16) "Money transmission license" means a license issued under Subchapter D.

(17) "Person" means an individual or legal entity.

(18) "Principal" means:

(A) with respect to a sole proprietorship, an owner; or

(B) with respect to a legal entity other than a

sole proprietorship, an executive officer, director, general partner, trustee, or manager, as applicable.

(19) "Record" means information that is:

(A) inscribed on a tangible medium; or

(B) stored in an electronic or other medium and retrievable in perceivable form.

(20) "Responsible individual" means an individual who has direct control over or significant management policy and decision-making authority with respect to a license holder's ongoing, daily money services operations in this state.

(20-a) "Tangible net worth" means the total value of all assets, minus any liabilities and intangible assets.

(21) "USA PATRIOT ACT" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Pub. L. No. 107-56, 115 Stat. 272).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 1, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. [483](#)), Sec. 2, eff. June 19, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. [483](#)), Sec. 3, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. [1403](#)), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 1, eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 2, eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 23(1), eff. May 24, 2019.

Sec. 151.003. EXCLUSIONS. The following persons are not required to be licensed under this chapter:

(1) the United States or an instrumentality of the

United States, including the United States Post Office or a contractor acting on behalf of the United States Post Office;

(2) a state or an agency, political subdivision, or other instrumentality of a state;

(3) a federally insured financial institution, as that term is defined by Section 201.101, that is organized under the laws of this state, another state, or the United States;

(4) a foreign bank branch or agency in the United States established under the federal International Banking Act of 1978 (12 U.S.C. Section 3101 et seq.);

(5) a person acting as an agent for an entity excluded under Subdivision (3) or (4), to the extent of the person's actions in that capacity, provided that:

(A) the entity is liable for satisfying the money services obligation owed to the purchaser on the person's receipt of the purchaser's money; and

(B) the entity and person enter into a written contract that appoints the person as the entity's agent and the person acts only within the scope of authority conferred by the contract;

(6) a person that, on behalf of the United States or a department, agency, or instrumentality of the United States, or a state or county, city, or any other governmental agency or political subdivision of a state, provides electronic funds transfer services of governmental benefits for a federal, state, county, or local governmental agency;

(7) a person that acts as an intermediary on behalf of and at the direction of a license holder in the process by which the license holder, after receiving money or monetary value from a purchaser, either directly or through an authorized delegate, transmits the money or monetary value to the purchaser's designated recipient, provided that the license holder is liable for satisfying the obligation owed to the purchaser;

(8) an attorney or title company that in connection with a real property transaction receives and disburses domestic currency or issues an escrow or trust fund check only on behalf of a party to the transaction;

(9) a person engaged in the business of currency transportation who is both a registered motor carrier under Chapter 643, Transportation Code, and a licensed armored car company or courier company under Chapter 1702, Occupations Code, provided that the person:

(A) only transports currency:

(i) from a person to the same person at another location;

(ii) from a person to a financial institution to be deposited in an account belonging to the same person; or

(iii) to a person from a financial institution after being withdrawn from an account belonging to the same person; and

(B) does not otherwise engage in the money transmission or currency exchange business without a license issued under this chapter;

(9-a) a trust company, as defined by Section 187.001(a), that is organized under the laws of this state; and

(10) any other person, transaction, or class of persons or transactions exempted by commission rule or any other person or transaction exempted by the commissioner's order on a finding that the licensing of the person is not necessary to achieve the purposes of this chapter.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 75 (S.B. 899), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 4, eff. June 19, 2015.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. 1403), Sec. 2, eff. September 1, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 3, eff. May 24, 2019.

## SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

Sec. 151.101. ADMINISTRATION. The department shall administer this chapter.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.102. RULES. (a) The commission may adopt rules to administer and enforce this chapter, including rules necessary or appropriate to:

- (1) implement and clarify this chapter;
- (2) preserve and protect the safety and soundness of money services businesses;
- (3) protect the interests of purchasers of money services and the public;
- (4) protect against drug trafficking, terrorist funding, and money laundering, structuring, or a related financial crime; and
- (5) recover the cost of maintaining and operating the department and the cost of administering and enforcing this chapter and other applicable law by imposing and collecting proportionate and equitable fees and costs for notices, applications, examinations, investigations, and other actions required to achieve the purposes of this chapter.

(b) The presence or absence of a specific reference in this chapter to a rule regarding a particular subject is not intended to and does not limit the general rulemaking authority granted to the commission by this section.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.103. COMMISSIONER'S GENERAL AUTHORITY. (a) Each power granted to the commissioner under this chapter is in addition to, and not in limitation of, each other power granted under this chapter. The fact that the commissioner possesses, or has exercised, a power under a provision of this chapter does not preclude the commissioner from exercising a power under any other

provision of this chapter.

(b) Each power granted to the commissioner under this chapter is in addition to, and not in limitation of, powers granted to the commissioner under other law. The fact that the commissioner possesses, or has exercised, a power under any other provision of law does not preclude the commissioner from exercising any power under this chapter. The fact that the commissioner possesses, or has exercised, a power under a provision of this chapter does not preclude the commissioner from exercising a power under any other law.

(c) The commissioner may impose on any authority, approval, exemption, license, or order issued or granted under this chapter any condition the commissioner considers reasonably necessary or appropriate to carry out and achieve the purposes of this chapter. Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.104. INVESTIGATIONS. (a) The commissioner may conduct investigations in or outside this state and the United States as the commissioner considers necessary or appropriate to administer and enforce this chapter, including investigations to:

(1) determine whether to approve an application for a license or a request for approval or exemption filed under this chapter or a rule adopted or order issued under this chapter;

(2) determine whether a person has violated or is likely to violate this chapter or a rule adopted or order issued under this chapter;

(3) determine whether a license or authorized delegate designation should be revoked or suspended;

(4) otherwise aid in the enforcement of this chapter or a rule adopted or order issued under this chapter; and

(5) aid in the adoption of rules or issuance of orders under this chapter.

(b) For purposes of an investigation, examination, or other proceeding under this chapter, the commissioner may administer or cause to be administered oaths, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production

of any document that the commissioner determines to be relevant to the inquiry.

(c) If a person refuses to obey a subpoena, a district court of Travis County, on application by the commissioner, may issue an order requiring the person to appear before the commissioner and produce documents or give evidence regarding the matter under investigation.

(d) The commissioner may employ a person or request the attorney general, the Department of Public Safety, or any other state, federal, or local law enforcement agency to assist in enforcing this chapter.

(e) The commissioner may recover the reasonable costs incurred in connection with an investigation conducted under this chapter from the person that is the subject of the investigation.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 2, eff. September 1, 2013.

Sec. 151.105. REGULATORY COOPERATION. (a) To efficiently and effectively administer and enforce this chapter and to minimize regulatory burden, the commissioner may cooperate, coordinate, and share information with another state, federal, or foreign governmental agency that:

(1) regulates or supervises persons engaged in money services businesses or activities subject to this chapter; or

(2) is authorized to investigate or prosecute violations of a state, federal, or foreign law related to persons engaged in money services businesses or activities subject to this chapter, including a state attorney general's office.

(b) The commissioner, with respect to an agency described by and for the purposes set forth in Subsection (a), may:

(1) enter into a written cooperation, coordination, or information-sharing contract or agreement with the agency;

(2) share information with the agency, subject to the confidentiality provisions of Section [151.606\(b\)\(3\)](#);



(3) conduct a joint or concurrent on-site examination or other investigation or enforcement action with the agency;

(4) accept a report of examination or investigation by, or a report submitted to, the agency, in which event the accepted report is an official report of the commissioner for all purposes;

(5) engage the services of the agency to assist the commissioner in performing or discharging a duty or responsibility imposed by this chapter or other law and pay a reasonable fee for the services;

(6) share with the agency any supervisory or examination fees assessed against a license holder or authorized delegate under this chapter and receive a portion of supervisory or examination fees assessed by the agency against a license holder or authorized delegate; and

(7) take other action as the commissioner considers reasonably necessary or appropriate to carry out and achieve the purposes of this chapter.

(b-1) To efficiently and effectively administer and enforce this chapter and to minimize regulatory burden, the commissioner may cooperate, coordinate, and share information with an organization the membership of which is made up of state or federal governmental agencies described by Subsection (a). The commissioner may:

(1) enter into a written cooperation, coordination, or information-sharing contract or agreement with the organization; and

(2) share information, provided that the organization agrees in writing to maintain the confidentiality and security of the shared information.

(c) The commissioner may not waive, and nothing in this section constitutes a waiver of, the commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by this chapter or a rule adopted or order issued under this chapter to enforce compliance with applicable state or federal law.

(d) A joint examination or investigation, or acceptance of

an examination or investigation report, does not waive an examination assessment provided for in this chapter.

(e) Chapter [2254](#), Government Code, does not apply to a contract or agreement entered into under this section.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 3, eff. September 1, 2013.

Sec. 151.106. CONSENT TO SERVICE OF PROCESS. A license holder, an authorized delegate, or a person who knowingly engages in activities that are regulated and require a license under this chapter, with or without filing an application for a license or holding a license under this chapter, is considered to have consented to the jurisdiction of the courts of this state for all actions arising under this chapter.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

#### SUBCHAPTER C. GENERAL QUALIFICATIONS AND PROVISIONS APPLICABLE TO MONEY SERVICES LICENSES

Sec. 151.201. SCOPE. This subchapter sets out the general qualifications and provisions that apply to a money services license, regardless of whether the license is a money transmission license or a currency exchange license. Subchapters D and E set forth the additional qualifications and provisions that apply specifically to a money transmission license. Subchapter F sets forth the additional qualifications and provisions that apply specifically to a currency exchange license.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. [483](#)), Sec. 5, eff. June 19, 2015.

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 4, eff.

May 24, 2019.

Sec. 151.202. QUALIFICATIONS FOR LICENSE. (a) Subject to Subsections (b) and (c), to qualify for a license under this chapter, an applicant must demonstrate to the satisfaction of the commissioner that:

(1) the financial responsibility and condition, financial and business experience, competence, character, and general fitness of the applicant justify the confidence of the public and warrant the belief that the applicant will conduct business in compliance with this chapter and the rules adopted under this chapter and other applicable state and federal law;

(2) the issuance of the license is in the public interest;

(3) the applicant, a principal of the applicant, or a person in control of the applicant does not owe the department a delinquent fee, assessment, administrative penalty, or other amount imposed under this chapter or a rule adopted or order issued under this chapter;

(4) the applicant, if a partnership, and any partner that would generally be liable for the obligations of the partnership, does not owe a delinquent federal tax;

(5) the applicant, if a corporation:

(A) is in good standing and statutory compliance in the state or country of incorporation;

(B) is authorized to engage in business in this state; and

(C) does not owe any delinquent franchise or other taxes to this state;

(6) the applicant, if not a corporation, is properly registered under the laws of this state or another state or country and, if required, is authorized to engage in business in this state; and

(7) the applicant, a principal of the applicant, or a principal of a person in control of the applicant is not listed on the specifically designated nationals and blocked persons list prepared by the United States Department of the Treasury, or

designated successor agency, as a potential threat to commit or fund terrorist acts.

(b) In determining whether an applicant has demonstrated satisfaction of the qualifications identified in Subsection (a)(1), the commissioner shall consider the financial responsibility and condition, financial and business experience, competence, character, and general fitness of each principal of, person in control of, principal of a person in control of, and proposed responsible individual of the applicant and may deny approval of the application on the basis that the applicant has failed to demonstrate satisfaction of the requisite qualifications with respect to one or more of those persons.

(c) The commissioner may not issue a license to an applicant if the applicant or one of the following persons has been convicted within the preceding 10 years of a criminal offense specified in Subsection (e):

(1) if the applicant is an individual, the spouse or proposed responsible individual or individuals of the applicant;

(2) if the applicant is an entity that is wholly owned, directly or indirectly, by a single individual, the spouse of the individual; or

(3) if the applicant is a person other than an individual, a principal of, person in control of, principal of a person in control of, or proposed responsible individual or individuals of the applicant.

(d) The commissioner, on a finding that the conviction does not reflect adversely on the present likelihood that the applicant will conduct business in compliance with this chapter, rules adopted under this chapter, and other applicable state and federal law, may waive a disqualification under Subsection (c) based on the conviction of a spouse or a corporate applicant or corporate person in control of an applicant.

(e) For purposes of Subsection (c), a disqualifying conviction is a conviction for a felony criminal offense:

(1) under state or federal law that involves or relates to:

(A) deception, dishonesty, or defalcation;

(B) money transmission or other money services, including a reporting, recordkeeping or registration requirement of the Bank Secrecy Act, the USA PATRIOT ACT, or Chapter [271](#);

(C) money laundering, structuring, or a related financial crime;

(D) drug trafficking; or

(E) terrorist funding; and

(2) under a similar law of a foreign country unless the applicant demonstrates to the satisfaction of the commissioner that the conviction was based on extenuating circumstances unrelated to the person's reputation for honesty and obedience to law.

(f) For purposes of Subsection (c), a person is considered to have been convicted of an offense if the person has been found guilty or pleaded guilty or nolo contendere to the charge or has been placed on probation or deferred adjudication without regard to whether a judgment of conviction has been entered by the court.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.203. APPLICATION FOR LICENSE. (a) An application for a license under this chapter must be made under oath and in the form and medium required by the commissioner. The application must contain:

(1) the legal name and residential and business address of the applicant and each principal of the applicant;

(2) the taxpayer identification number, social security number, driver's license number, or other identifying information the commissioner requires of the applicant and each principal of the applicant; and

(3) any other information or documentation the commissioner reasonably requires to determine whether the applicant qualifies for and should be issued the license for which application is made.

(b) The commissioner, at the time the application is submitted or in connection with an investigation of the application under Section [151.204](#), may require the applicant, the spouse of the applicant, a principal of, individual who is a person in control of,

or proposed responsible individual of the applicant, or any other individual associated with the applicant and the proposed licensed activities, to provide the department a complete set of fingerprints for purposes of a criminal background investigation.

(c) An applicant must certify in writing on the application that the applicant and each principal of, person in control of, and proposed responsible individual of the applicant:

(1) is familiar with and agrees to fully comply with all applicable state and federal laws and regulations pertaining to the applicant's proposed money services business, including this chapter, relevant provisions of the Bank Secrecy Act, the USA PATRIOT ACT, and Chapter 271;

(2) has not within the preceding three years knowingly failed to file or evaded the obligation to file a report, including a currency transaction or suspicious activity report required by the Bank Secrecy Act, the USA PATRIOT ACT, or Chapter 271; and

(3) has not knowingly accepted money for transmission or exchange in which a portion of the money was derived from an illegal transaction or activity.

(d) The commissioner may waive an application requirement or permit the submission of substituted information in lieu of the information generally required in an application, either with respect to a specific applicant or a category of applicants, if the commissioner determines that the waiver or substitution of information is consistent with achievement of the purposes of this chapter.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

Sec. 151.2031. USE OF NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY. (a) In this section, "Nationwide Multistate Licensing System and Registry" or "nationwide registry" means a licensing system developed and maintained by the Conference of State Bank Supervisors or an affiliated organization to manage mortgage licenses and other financial services licenses, or a successor registry.

(b) The commissioner may require that a person submit

through the Nationwide Multistate Licensing System and Registry in the form and manner prescribed by the commissioner and acceptable to the registry any information or document or payment of a fee required to be submitted under this chapter or rules adopted under this chapter.

(c) The commissioner may use the nationwide registry as a channeling agent for obtaining information required for licensing purposes under this chapter or rules adopted under this chapter, including:

(1) criminal history record information from the Federal Bureau of Investigation, the United States Department of Justice, or any other agency or entity at the commissioner's discretion;

(2) information related to any administrative, civil, or criminal findings by a governmental jurisdiction; and

(3) information requested by the commissioner under Section 151.203(a)(3).

Added by Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. 2134), Sec. 4, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. 1403), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. 1403), Sec. 4, eff. September 1, 2017.

#### Sec. 151.204. PROCESSING AND INVESTIGATION OF APPLICATION.

(a) An application for a license under this chapter shall be processed and acted on according to the time periods established by commission rule.

(b) On receipt of an application that meets the requirements of Section 151.203 and Section 151.304 or 151.504, as applicable, the commissioner shall investigate the applicant to determine whether the prescribed qualifications have been met. The commissioner may:

(1) conduct an on-site investigation of the applicant;

(2) employ a screening service to assist with the investigation;

(3) to the extent the commissioner considers reasonably necessary to evaluate the application and the applicant's qualifications, investigate the financial responsibility and condition, financial and business experience, character and general fitness of each principal of, person in control of, principal of a person in control of, or proposed responsible individual of the applicant or any other person that is or will be associated with the applicant's licensed activities in this state; or

(4) require additional information and take other action the commissioner considers reasonably necessary.

(c) The commissioner may collect from the applicant the reasonable expenses of an on-site examination or third-party investigation. Additionally, depending on the nature and extent of the investigation required in connection with a particular application, the commissioner may require an applicant to pay a nonrefundable investigation fee in an amount established by commission rule.

(d) The commissioner may suspend consideration of an application for a license if the applicant or a principal of, person in control of, or proposed responsible individual of the applicant is the subject of a pending state or federal criminal prosecution, state or federal government enforcement action, or state or federal asset forfeiture proceeding until the conclusion of the prosecution, action, or proceeding.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.205. ISSUANCE OF LICENSE. (a) The commissioner shall issue a license if the commissioner, with respect to the license for which application has been made, finds that:

(1) the applicant meets the prescribed qualifications and it is reasonable to believe that the applicant's business will be conducted fairly and lawfully, according to applicable state and federal law, and in a manner commanding the public's trust and confidence;

(2) the issuance of the license is in the public



interest;

(3) the documentation and forms required to be submitted by the applicant are acceptable; and

(4) the applicant has satisfied all requirements for licensure.

(b) If the commissioner finds that the applicant for any reason fails to possess the qualifications or satisfy the requirements for the license for which application is made, the commissioner shall inform the applicant in writing that the application is denied and state the reasons for the denial. The applicant may appeal the denial by filing a written request for a hearing with the commissioner not later than the 30th day after the date the notice is mailed. A hearing on the denial must be held not later than the 45th day after the date the commissioner receives the written request unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date. The hearing is considered a contested case hearing and is subject to Section [151.801](#).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.206. TRANSFER OR ASSIGNMENT OF LICENSE. A license issued under this chapter may not be transferred or assigned.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.207. CONTINUATION OF LICENSE; ANNUAL REPORT AND FEE. (a) If a license holder does not continue to meet the qualifications or satisfy the requirements that apply to an applicant for a new money transmission license or currency exchange license, as applicable, the commissioner may suspend or revoke the license holder's license.

(b) In addition to complying with Subsection (a), a license holder must annually:

(1) pay a license fee in an amount established by commission rule; and

(2) submit a report that is under oath, is in the form

and medium required by the commissioner, and contains:

(A) if the license is a money transmission license, an audited unconsolidated financial statement dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year;

(B) if the license is a currency exchange license, a financial statement, audited or unaudited, dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year; and

(C) documentation and certification, or any other information the commissioner reasonably requires to determine the security, net worth, permissible investments, and other requirements the license holder must satisfy and whether the license holder continues to meet the qualifications and requirements for licensure.

(c) If the department does not receive a license holder's annual license fee and complete annual report on or before the due date prescribed by the commissioner under this section, the commissioner shall notify the license holder in writing that:

(1) the license holder shall submit the report and pay the license fee not later than the 45th day after the due date prescribed by the commissioner; and

(2) the license holder must pay a late fee, in an amount that is established by commission rule and not subject to appeal, for each business day after the report due date specified by the commissioner that the commissioner does not receive the completed report and license fee.

(d) If the license holder fails to submit the completed annual report and pay the annual license fee and any late fee due within the time prescribed by Subsection (c)(1), the license expires, and the license holder must cease and desist from engaging in the business of money transmission or currency exchange, as applicable, as of that date. The expiration of a license is not subject to appeal.

(e) On timely receipt of a license holder's complete annual report, annual license fee, and any late fee due, the department shall review the report and, if necessary, investigate the business

and records of the license holder. On completion of the review and investigation, if any, the commissioner may:

(1) impose conditions on the license the commissioner considers reasonably necessary or appropriate; or

(2) suspend or revoke the license on the basis of a ground specified in Section [151.703](#).

(f) On written application and for good cause shown, the commissioner may extend the due date for filing the annual license fee and annual report required under this section.

(g) The holder or principal of or the person in control of the holder of an expired license, or the holder or principal of or person in control of the holder of a license surrendered under Section [151.208](#), that wishes to conduct activities for which a license is required under this chapter must file a new license application and satisfy all requirements for licensure that apply at the time the new application is filed.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 6, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. [483](#)), Sec. 6, eff. June 19, 2015.

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 5, eff. May 24, 2019.

Sec. 151.208. SURRENDER OF LICENSE. (a) A license holder may surrender the license holder's license by delivering the original license to the commissioner along with a written notice of surrender that includes the location at which the license holder's records will be stored and the name, address, telephone number, and other contact information for an individual who is authorized to provide access to the records.

(b) A license holder shall surrender the license holder's license if the license holder becomes ineligible for a license

under Section [151.202\(c\)](#).

(c) The surrender of a license does not reduce or eliminate a license holder's civil or criminal liability arising from any acts or omissions before the surrender of the license, including any administrative action undertaken by the commissioner to revoke or suspend a license, to assess an administrative penalty, to order the payment of restitution, or to exercise any other authority under this chapter. Further, the surrender of a license does not release the security required of the license holder under Section [151.308](#) or [151.506](#).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 7, eff. September 1, 2013.

Sec. 151.209. REFUNDS. A fee or cost paid under this chapter is not refundable.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 8, eff. September 1, 2013.

#### SUBCHAPTER D. MONEY TRANSMISSION LICENSE

Sec. 151.301. DEFINITIONS. (a) This section defines terms that apply to an applicant for or holder of a money transmission license issued under this subchapter.

(b) In this subchapter:

(1) "Currency" means the coin and paper money of the United States or another country that is designated as legal tender and circulates and is customarily used and accepted as a medium of exchange in the country of issuance.

(2) "Electronic instrument" means a card or other tangible object for the transmission, transfer, or payment of money or monetary value, that contains an electronic chip or strip for the

storage of information or that provides access to information.

(3) "Money" or "monetary value" means currency or a claim that can be converted into currency through a financial institution, electronic payments network, or other formal or informal payment system.

(4) "Money transmission" means the receipt of money or monetary value by any means in exchange for a promise to make the money or monetary value available at a later time or different location. The term:

(A) includes:

(i) selling or issuing stored value or payment instruments, including checks, money orders, and traveler's checks;

(ii) receiving money or monetary value for transmission, including by payment instrument, wire, facsimile, electronic transfer, or ACH debit;

(iii) providing third-party bill paying services; or

(iv) receiving currency or an instrument payable in currency to physically transport the currency or its equivalent from one location to another by motor vehicle or other means of transportation or through the use of the mail or a shipping, courier, or other delivery service; and

(B) does not include the provision solely of online or telecommunication services or connection services to the Internet.

(5) "Outstanding" means:

(A) with respect to a payment instrument or stored value, a payment instrument or stored value that has been issued and sold in the United States directly by the license holder, or sold by an authorized delegate of the license holder in the United States and reported to the license holder, that has not yet been paid by or for the license holder; or

(B) with respect to transmission, a money transmission for which the license holder, directly or through an authorized delegate of the license holder, has received money or monetary value from the customer for transmission, but has not yet

completed the money transmission by delivering the money or monetary value to the person designated by the customer or refunded the money or monetary value to the customer.

(6) "Payment instrument" means a written or electronic equivalent of a check, draft, money order, traveler's check, or other written or electronic instrument, service, or device for the transmission or payment of money or monetary value, sold or issued to one or more persons, regardless of whether negotiable. The term does not include an instrument, service, or device that:

(A) transfers money directly from a purchaser to a creditor of the purchaser or to an agent of the creditor;

(B) is redeemed by the issuer in goods or services or a cash or credit refund under circumstances not designed to evade the obligations and responsibilities imposed by this chapter; or

(C) is a credit card voucher or letter of credit.

(7) Repealed by Acts 2015, 84th Leg., R.S., Ch. 75 , Sec. 7, eff. September 1, 2015.

(8) "Stored value" means monetary value evidenced by an electronic record that is prefunded and for which value is reduced on each use. The term includes prepaid access as defined by 31 C.F.R. Section 1010.100(w). The term does not include an electronic record that is:

(A) loaded with points, miles, or other nonmonetary value;

(B) not sold to the public but distributed as a reward or charitable donation; or

(C) redeemable only for goods or services from a specified merchant or set of affiliated merchants, such as:

(i) a specified retailer or retail chain;

(ii) a set of affiliated companies under common ownership;

(iii) a college campus; or

(iv) a mass transportation system.

(9) "Unsafe or unsound act or practice" means a practice of or conduct by a license holder or an authorized delegate of the license holder that creates the likelihood of material loss,

insolvency, or dissipation of the license holder's assets, or that otherwise materially prejudices the interests of the license holder or the license holder's customers.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 9, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 75 (S.B. [899](#)), Sec. 7, eff. September 1, 2015.

Sec. 151.302. LICENSE REQUIRED.

(a) A person may not engage in the business of money transmission in this state or advertise, solicit, or represent that the person engages in the business of money transmission in this state unless the person:

(1) is licensed under this subchapter;

(2) is an authorized delegate of a person licensed under this subchapter, appointed by the license holder in accordance with Section [151.402](#);

(3) is excluded from licensure under Section [151.003](#);

or

(4) has been granted an exemption under Subsection (c).

(b) For purposes of this chapter, a person engages in the business of money transmission if the person receives compensation or expects to receive compensation, directly or indirectly, for conducting money transmission.

(c) On application and a finding that the exemption is in the public interest, the commissioner may exempt a person that:

(1) incidentally engages in the money transmission business only to the extent reasonable and necessary to accomplish a primary business objective unrelated to the money transmission business;

(2) does not advertise or offer money transmission services to the public except to the extent reasonable and necessary to fairly advertise or offer the person's primary

business services; and

(3) transmits money without a fee as an inducement for customer participation in the person's primary business.

(d) A license holder may engage in the money transmission business at one or more locations in this state owned, directly or indirectly by the license holder, or through one or more authorized delegates, or both, under a single license granted to the license holder.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 75 (S.B. [899](#)), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. [483](#)), Sec. 7, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. [1403](#)), Sec. 5, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 6, eff. May 24, 2019.

Sec. 151.303. ADDITIONAL QUALIFICATIONS. In addition to the general qualifications for licensure set forth in Section [151.202](#), an applicant for a money transmission license must demonstrate to the satisfaction of the commissioner that:

(1) the applicant has and will maintain the minimum net worth required under Section [151.307](#);

(2) the applicant's financial condition will enable the applicant to safely and soundly engage in the business of money transmission; and

(3) the applicant does not engage in any activity or practice that adversely affects the applicant's safety and soundness.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.304. APPLICATION AND ACCOMPANYING FEE, STATEMENTS, AND SECURITY. (a) An applicant for a money transmission license



must submit an application in accordance with Section [151.203](#).

(b) At the time an application for a money transmission license is submitted, an applicant must file with the department:

(1) an application fee in the amount established by commission rule;

(2) audited financial statements that are satisfactory to the commissioner for purposes of determining whether the applicant has the minimum net worth required under Section [151.307](#) and is likely to maintain the required minimum net worth if a license is issued; and

(3) security that meets the requirements of Section [151.308](#), and an undertaking or agreement that the applicant will increase or supplement the security to equal the aggregate security required by the commissioner under that section before the issuance of the license and the start of operations.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. [1403](#)), Sec. 6, eff. September 1, 2017.

Sec. 151.305. INVESTIGATION AND ACTION ON APPLICATION. The commissioner shall investigate the applicant and act on the application in accordance with Sections [151.204](#) and [151.205](#).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.306. TEMPORARY LICENSE. (a) The commissioner may issue a temporary license to a person that is engaging in money transmission, but has not obtained a license under this subchapter, if the person:

(1) certifies in writing that the person qualifies for the license and will submit a completed license application not later than the 60th day after the date the temporary license is issued;

(2) submits a recent financial statement acceptable to the commissioner that reflects the minimum net worth required under

Section 151.307;

(3) provides security that meets the requirements of Section 151.308 in an amount specified by the commissioner, but not less than \$300,000;

(4) agrees in writing that, until a permanent license is issued, the person will engage only in activities being conducted at existing locations; and

(5) pays the application fee and a nonrefundable temporary license fee in the amount established by commission rule.

(b) The effective period for a temporary license may not exceed 90 days from the date the license is issued, provided that the commissioner may extend the period for not more than an additional 90 days if necessary to complete the processing of a timely filed application for which approval is likely.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. 2134), Sec. 10, eff. September 1, 2013.

Sec. 151.307. NET WORTH. (a) An applicant for a money transmission license must possess, and a money transmission license holder must maintain at all times, a minimum net worth computed in accordance with generally accepted accounting principles of:

(1) \$100,000, if business is proposed to be or is conducted, directly or through an authorized delegate, at four or fewer locations; or

(2) \$500,000, if business is proposed to be or is conducted, directly or through an authorized delegate, at five or more locations or over the Internet.

(b) The commissioner may increase the amount of net worth required of an applicant or license holder, up to a maximum of \$1 million, if the commissioner determines, with respect to the applicant or license holder, that a higher net worth is necessary to achieve the purposes of this chapter based on:

(1) the nature and volume of the projected or established business;

(2) the number of locations at or through which money transmission is or will be conducted;

(3) the amount, nature, quality, and liquidity of its assets;

(4) the amount and nature of its liabilities;

(5) the history of its operations and prospects for earning and retaining income;

(6) the quality of its operations;

(7) the quality of its management;

(8) the nature and quality of its principals and persons in control;

(9) the history of its compliance with applicable state and federal law; and

(10) any other factor the commissioner considers relevant.

(c) At least 50 percent of the applicant's or license holder's total net worth under this section must be tangible net worth.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. [1403](#)), Sec. 7, eff. September 1, 2017.

Sec. 151.308. SECURITY. (a) An applicant for a money transmission license must provide, and a money transmission license holder must maintain at all times, security consisting of a surety bond, an irrevocable letter of credit, or a deposit instead of a bond in accordance with this section.

(b) The amount of the required security is the greater of \$300,000 or an amount equal to one percent of the license holder's total yearly dollar volume of money transmission business in this state or the applicant's projected total volume of business in this state for the first year of licensure, up to a maximum of \$2 million.

(b-1) The commissioner may increase the amount of security required of an applicant who intends to provide, or a license holder

who is providing, third-party bill payments in conjunction with loan acceleration services, up to a total amount of \$2 million, by multiplying the amount of security required under this section by a factor of up to two, if the commissioner determines, with respect to the applicant or license holder, that a higher amount of the required security is necessary to achieve the purposes of this chapter based on the factors listed under Section [151.307\(b\)](#).

(b-2) When the amount of the required security exceeds \$1 million, the applicant or license holder may, in the alternative, provide security in the amount of \$1 million, plus a dollar for dollar increase in the net worth of the applicant or license holder over the amount required under Section [151.307](#), up to a total amount of \$2 million.

(c) The security must:

(1) be in a form satisfactory to the commissioner;

(2) be payable to any claimant or to the commissioner, on behalf of a claimant or this state, for any liability arising out of the license holder's money transmission business in this state, incurred under, subject to, or by virtue of this chapter; and

(3) if the security is a bond, be issued by a qualified surety company authorized to engage in business in this state and acceptable to the commissioner or, if the security is an irrevocable letter of credit, be issued by a financial institution acceptable to the commissioner.

(d) A claimant may bring suit directly on the security, or the commissioner may bring suit on behalf of the claimant or the state, either in one action or in successive actions.

(e) The commissioner may collect from the security or proceeds of the security any delinquent fee, assessment, cost, penalty, or other amount imposed on and owed by a license holder. If the security is a surety bond, the commissioner shall give the surety reasonable prior notice of a hearing to impose an administrative penalty against the license holder, provided that a surety may not be considered an interested, aggrieved, or affected person for purposes of an administrative proceeding under Section [151.801](#) or Chapter [2001](#), Government Code.

(f) The security remains in effect until canceled, which may

occur only after providing 30 days' written notice to the commissioner. Cancellation does not affect any liability incurred or accrued during the period covered by the security.

(g) The security shall cover claims for at least five years after the license holder surrenders its license or otherwise ceases to engage in activities for which a license is required under this subchapter. However, the commissioner may permit the amount of the security to be reduced or eliminated before that time to the extent that the amount of the license holder's obligations to the department and to purchasers in this state is reduced. The commissioner may permit a license holder to substitute another form of security when the license holder ceases to provide money transmission in this state.

(h) If the commissioner at any time reasonably determines that the required security is insecure, deficient in amount, or exhausted in whole or in part, the commissioner by written order shall require the license holder to file or make new or additional security to comply with this section.

(i) Instead of providing all or part of the amount of the security required by this section, an applicant or license holder may deposit, with a financial institution possessing trust powers that is authorized to conduct a trust business in this state and is acceptable to the commissioner, an aggregate amount of United States currency, certificates of deposit, or other cash equivalents that equals the total amount of the required security or the remaining part of the security. The deposit:

(1) must be held in trust in the name of and be pledged to the commissioner;

(2) must secure the same obligations as the security; and

(3) is subject to other conditions and terms the commissioner may reasonably require.

(j) The security is considered by operation of law to be held in trust for the benefit of this state and any individual to whom an obligation arising under this chapter is owed, and may not be considered an asset or property of the license holder in the event of bankruptcy, receivership, or a claim against the license

holder unrelated to the license holder's obligations under this chapter.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 11, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. [1403](#)), Sec. 8, eff. September 1, 2017.

Sec. 151.309. PERMISSIBLE INVESTMENTS. (a) A money transmission license holder must maintain at all times permissible investments that have an aggregate market value computed in accordance with generally accepted accounting principles in an amount not less than:

(1) if the license holder has a net worth of less than \$5 million, the aggregate face amount of the license holder's average outstanding money transmission obligations in the United States, computed in the manner prescribed by commission rule; or

(2) if the license holder has a net worth of \$5 million or more, 50 percent of the amount required by Subdivision (1).

(b) Except to the extent limited by Subsection (d), the following constitute a permissible investment for purposes of this section:

(1) 40 percent of the receivables due a license holder from authorized delegates resulting from money transmission under this chapter that is not past due or doubtful of collection;

(2) cash in demand or interest-bearing accounts with a federally insured depository institution, including certificates of deposit;

(3) certificates of deposit or senior debt obligations of a domestic federally insured depository institution that are readily marketable and insured by an agency of the federal government;

(4) investment grade bonds and other legally created general obligations of a state, an agency or political subdivision of a state, the United States, or an instrumentality of the United

States;

(5) obligations that a state, an agency or political subdivision of a state, the United States, or an instrumentality of the United States has unconditionally agreed to purchase, insure, or guarantee and that bear a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

(6) shares in a money market mutual fund if the mutual fund, under the terms of the mutual fund's governing documents, is authorized to invest only in securities of the type described by Subdivisions (4) and (5) or permitted by commission rule; and

(7) other assets and investments permitted by rule of the commission or approved by the commissioner in writing, based on a determination that the assets or investments have a safety substantially equivalent to other permissible investments.

(c) In addition to investments listed in Subsection (b), a permissible investment for purposes of Subsection (a) includes:

(1) the security provided under Section 151.308;

(2) a surety bond or letter of credit in addition to the security provided under Section 151.308, if the additional surety bond or letter of credit satisfies the requirements of Section 151.308; and

(3) that portion of a surety bond maintained for the benefit of the purchasers of the license holder's outstanding money transmission obligations in another state that is not in excess of the amount of the outstanding obligations in that state, provided:

(A) the license holder maintains a surety bond or letter of credit or has on hand other permissible investments, or a combination of investments, in an amount sufficient to satisfy the requirements of Subsection (a) with respect to the outstanding money transmission obligations in this state; and

(B) the surety bond is issued by a surety rated within the top two rating categories of a nationally recognized United States rating service.

(d) The commissioner, with respect to a license holder, may limit or disallow for purposes of determining compliance with Subsection (a) an investment, surety bond, or letter of credit

otherwise permitted by this section if the commissioner determines it to be unsatisfactory for investment purposes or to pose a significant supervisory concern.

(e) A permissible investment subject to this section, even if commingled with other assets of the license holder, is considered by operation of law to be held in trust for the benefit of any individual to whom an obligation arising under this chapter is owed, and may not be considered an asset or property of the license holder in the event of bankruptcy, receivership, or a claim against the license holder unrelated to any of the license holder's obligations under this chapter.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

#### SUBCHAPTER E. CONDUCT OF MONEY TRANSMISSION BUSINESS

Sec. 151.401. LIABILITY OF LICENSE HOLDER. A money transmission license holder is liable for the payment of all money or monetary value received for transmission directly or by an authorized delegate appointed in accordance with Section [151.402](#).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 12, eff. September 1, 2013.

Sec. 151.402. CONDUCT OF BUSINESS THROUGH AUTHORIZED DELEGATE. (a) A money transmission license holder may conduct business regulated under this chapter through an authorized delegate appointed by the license holder in accordance with this section. A license holder is responsible for the acts of the authorized delegate, of which the license holder has or reasonably should have knowledge, that are conducted pursuant to the authority granted by the license holder and that relate to the license holder's money transmission business.

(b) Before a license holder is authorized to conduct business through an authorized delegate or allows a person to act as



the license holder's authorized delegate, the license holder must:

(1) adopt, and update as necessary, written policies and procedures designed to ensure that the license holder's authorized delegate complies with applicable state and federal law;

(2) enter into a written contract that complies with Subsection (c); and

(3) conduct a reasonable risk-based background investigation sufficient for the license holder to determine whether the authorized delegate has complied with applicable state and federal law.

(c) The written contract required by Subsection (b)(2) must be signed by the license holder and the authorized delegate and, at a minimum, must:

(1) appoint the person signing the contract as the license holder's authorized delegate with the authority to conduct money transmission on behalf of the license holder;

(2) set forth the nature and scope of the relationship between the license holder and the authorized delegate and the respective rights and responsibilities of the parties;

(3) require the authorized delegate to certify that the delegate is familiar with and agrees to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money transmission, including this chapter and rules adopted under this chapter, relevant provisions of the Bank Secrecy Act and the USA PATRIOT ACT, and Chapter [271](#);

(4) require the authorized delegate to remit and handle money and monetary value in accordance with Sections [151.403](#)(b) and (c);

(5) impose a trust on money and monetary value received in accordance with Section [151.404](#);

(6) require the authorized delegate to prepare and maintain records as required by this chapter or a rule adopted under this chapter or as reasonably requested by the commissioner;

(7) acknowledge that the authorized delegate consents to examination or investigation by the commissioner;

(8) state that the license holder is subject to regulation by the commissioner and that, as part of that

regulation, the commissioner may suspend or revoke an authorized delegate designation or require the license holder to terminate an authorized delegate designation;

(9) acknowledge receipt of the written policies and procedures required under Subsection (b)(1); and

(10) acknowledge that the authorized delegate has been provided regulatory website addresses through which the authorized delegate can access this chapter and rules adopted under this chapter and the Bank Secrecy Act, the USA PATRIOT ACT, and Chapter [271](#).

(d) A license holder must report to the commissioner the theft or loss of payment instruments or stored value from the license holder or an authorized delegate in this state if the total value of the instruments or stored value exceeds \$10,000. The license holder must make the report as soon as the license holder has knowledge of the theft or loss.

(e) A license holder must notify the license holder's authorized delegates and require the delegates to take any action required by the commissioner if:

(1) the license holder's license expired or is surrendered or revoked; or

(2) the license holder is subject to an emergency or final order that affects the conduct of the license holder's business through an authorized delegate.

(f) A license holder must maintain a current list of authorized delegates located in this state or doing business with persons located in this state that includes the name and business address of each delegate and must provide the list to the commissioner on request. A license holder that engages in business through 11 or more authorized delegates located in this state must include on the license holder's website a list of the names and addresses of the authorized delegates of the license holder located in this state and the delegates' business addresses. The license holder must update the list quarterly.

(g) The commission by rule may exempt from one or more of the requirements of this chapter an authorized delegate that is a federally insured financial institution excluded under Section

151.003(3) or a foreign bank branch or agency excluded under Section 151.003(4).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. 2134), Sec. 13, eff. September 1, 2013.

Sec. 151.403. AUTHORIZED DELEGATE CONDUCT. (a) An authorized delegate of a license holder:

(1) is under a duty to and must act only as authorized under the contract with the license holder and in strict compliance with the license holder's written policies and procedures;

(2) must not commit fraud or misrepresentation or make any fraudulent or false statement or misrepresentation to a license holder or the commissioner;

(3) must cooperate with an investigation or examination conducted by the commissioner and is considered to have consented to the commissioner's examination of the delegate's books and records;

(4) must not commit an unsafe or unsound act or practice or conduct business in an unsafe and unsound manner;

(5) must, on discovery, immediately report to the license holder the theft or loss of payment instruments or stored value;

(6) must prominently display on the form prescribed by the commissioner a notice that indicates that the person is an authorized delegate of the license holder under this subchapter; and

(7) must cease to provide money services as an authorized delegate of a license holder or take other required action immediately on receipt of notice from the commissioner or the license holder as provided by Section 151.402(e).

(b) An authorized delegate shall remit all money owed to the license holder:

(1) not later than the 10th business day after the date the authorized delegate receives the money;

(2) in accordance with the contract between the license holder and the authorized delegate; or

(3) as directed by the commissioner.

(c) Notwithstanding Subsection (b)(1), an authorized delegate may remit the money at a later date if the authorized delegate maintains on deposit with an office of a federally insured financial institution located in the United States an amount that:

(1) is in an account solely in the name of the license holder; and

(2) for each day by which the period before the remittance exceeds 10 business days, is not less than the outstanding obligations of the license holder routinely incurred by the authorized delegate on a daily basis.

(d) Any business for which a license is required under this subchapter that is conducted by an authorized delegate outside the scope of authority conferred in the contract between the authorized delegate and the license holder is unlicensed activity.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.404. TRUST IMPOSED. (a) A license holder shall hold in trust all money received for transmission directly or from an authorized delegate from the time of receipt until the time the transmission obligation is discharged. A trust resulting from the license holder's actions is in favor of the persons to whom the related money transmission obligations are owed.

(b) A license holder's authorized delegate shall hold in trust all money received for transmission by or for the license holder from the time of receipt until the time the money is remitted by the authorized delegate to the license holder. A trust resulting from the authorized delegate's actions is in favor of the license holder.

(c) A license holder's authorized delegate may not commingle the money received for transmission by or for the license holder with the authorized delegate's own money or other property, except to use in the ordinary course of the delegate's business for the purpose of making change, if the money is accounted for at the

end of each business day.

(d) If a license holder or the license holder's authorized delegate commingles any money received for transmission with money or other property owned or controlled by the license holder or delegate, all commingled money and other property are impressed with a trust as provided by this section in an amount equal to the amount of money received for transmission, less the amount of fees paid for the transmission.

(e) If the commissioner revokes a license holder's license under Section [151.703](#), all money held in trust by the license holder and the license holder's authorized delegates is assigned to the commissioner for the benefit of the persons to whom the related money transmission obligations are owed.

(f) Money of a license holder or authorized delegate impressed with a trust under this section may not be considered an asset or property of the license holder or authorized delegate in the event of bankruptcy, receivership, or a claim against the license holder or authorized delegate unrelated to the license holder's or delegate's obligations under this chapter.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.405. DISCLOSURE REQUIREMENTS. (a) A license holder's name and mailing address or telephone number must be provided to the purchaser in connection with each money transmission transaction conducted by the license holder directly or through an authorized delegate.

(b) A license holder receiving currency or an instrument payable in currency for transmission must comply with Chapter [278](#).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

#### SUBCHAPTER F. CURRENCY EXCHANGE LICENSE

Sec. 151.501. DEFINITIONS. (a) This section defines terms that apply specifically to an applicant for or holder of a currency exchange license issued under this subchapter.

(b) In this subchapter:

(1) "Currency" means the coin and paper money of the United States or any country that is designated as legal tender and circulates and is customarily used and accepted as a medium of exchange in the country of issuance.

(2) "Currency exchange" means:

(A) receiving the currency of one government and exchanging it for the currency of another government; or

(B) receiving a negotiable instrument and exchanging it for the currency of another government.

(3) "Negotiable instrument" has the meaning assigned by Section 3.104, Business & Commerce Code.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. 2134), Sec. 14, eff. September 1, 2013.

Sec. 151.502. LICENSE REQUIRED.

(a) A person may not engage in the business of currency exchange or advertise, solicit, or hold itself out as providing currency exchange unless the person:

(1) is licensed under this subchapter;

(2) is licensed for money transmission under Subchapter D;

(3) is an authorized delegate of a person licensed for money transmission under Subchapter D;

(4) is excluded under Section 151.003; or

(5) has been granted an exemption under Subsection (d).

(b) For purposes of this chapter, a person engages in the business of currency exchange if the person exchanges currency and receives compensation or expects to receive compensation, directly or indirectly, for the currency exchange.

(c) A license holder may engage in the currency exchange business at one or more locations in this state owned, directly or indirectly by the license holder, under a single license.

(d) On application and a finding that the exemption is in the public interest, the commissioner may exempt a retailer, wholesaler, or service provider that in the ordinary course of business accepts currency of a foreign country or government as payment for goods or services, provided that a person is not eligible for the exemption if:

(1) the value of the goods or services purchased in a single transaction exceeds \$10,000;

(2) the change given or made as a result of the transaction exceeds \$100;

(3) an attempt is made to structure a transaction in a manner that evades the licensing requirements of this subchapter or avoids using a business licensed under this chapter;

(4) the person is engaged in the business of cashing checks, drafts, or other payment instruments for consideration and is not otherwise exempt from licensing under this chapter; or

(5) the person would not be eligible for a license under this chapter.

(e) In accordance with the investigation provisions of this chapter, the commissioner may examine a person to verify the person's exempt status under Subsection (d).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. [483](#)), Sec. 8, eff. June 19, 2015.

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 7, eff. May 24, 2019.

Sec. 151.503. QUALIFICATIONS. An applicant for a currency exchange license must have the qualifications set forth in Section [151.202](#).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.504. APPLICATION AND ACCOMPANYING FEE AND SECURITY. (a) An applicant for a currency exchange license must

submit an application in accordance with Section [151.203](#).

(b) At the time an application for a currency exchange license is submitted, an applicant must file with the department:

(1) an application fee in the amount established by commission rule; and

(2) security in the amount required under Section [151.506](#).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 75 (S.B. [899](#)), Sec. 3, eff. September 1, 2015.

Sec. 151.505. INVESTIGATION AND ACTION ON APPLICATION. The commissioner shall investigate the applicant and act on the application in accordance with Sections [151.204](#) and [151.205](#).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.506. SECURITY. (a) An applicant for a currency exchange license must provide and a currency exchange license holder must maintain at all times security in the amount applicable to the applicant or license holder under this section. The security must satisfy the requirements of and is subject to Sections [151.308\(c\)-\(j\)](#).

(b) An applicant must provide and a license holder must maintain security in the amount of \$2,500 if the applicant will conduct or the license holder conducts business with persons located in this state exclusively at one or more physical locations through in-person, contemporaneous transactions.

(c) Except as provided by Subsection (d), if Subsection (b) does not apply to:

(1) the applicant, the applicant must provide security in the amount that is the greater of:

(A) \$2,500; or

(B) an amount equal to one percent of the applicant's projected total dollar volume of currency exchange



business in this state for the first year of licensure; or

(2) the license holder, the license holder must maintain security in the amount that is the greater of:

(A) \$2,500; or

(B) an amount equal to one percent of the license holder's total dollar volume of currency exchange business in this state for the preceding year.

(d) The maximum amount of security that may be required under Subsection (c) is \$1 million.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 75 (S.B. [899](#)), Sec. 4, eff. September 1, 2015.

#### SUBCHAPTER G. EXAMINATIONS, REPORTS, AND RECORDS

Sec. 151.601. EXAMINATIONS. (a) The commissioner may examine a license holder or authorized delegate of a license holder as reasonably necessary or appropriate to administer and enforce this chapter and rules adopted and orders issued under this chapter and other applicable law, including the Bank Secrecy Act, the USA PATRIOT ACT, and Chapter [271](#).

(b) The commissioner may:

(1) conduct an examination annually or at other times as the commissioner may reasonably require;

(2) conduct an on-site examination or an off-site review of records;

(3) conduct an examination in conjunction with an examination conducted by representatives of other state agencies or agencies of another state or of the federal government;

(4) accept the examination report of another state agency or an agency of another state or of the federal government, or a report prepared by an independent accounting firm, which on being accepted is considered for all purposes as an official report of the commissioner; and

(5) summon and examine under oath a principal,

responsible individual, or employee of a license holder or authorized delegate of a license holder and require the person to produce records regarding any matter related to the condition and business of the license holder or authorized delegate.

(c) A license holder or authorized delegate of a license holder shall provide, and the commissioner shall have full and complete access to, all records the commissioner may reasonably require to conduct a complete examination. The records must be provided at the location and in the format specified by the commissioner.

(d) Unless otherwise directed by the commissioner, a license holder shall pay all costs reasonably incurred in connection with an examination of the license holder or the license holder's authorized delegate.

(e) Disclosure of information to the commissioner under an examination request does not waive or otherwise affect or diminish confidentiality or a privilege to which the information is otherwise subject. Information disclosed to the commissioner in connection with an examination is confidential under Section [151.606](#).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.602. RECORDS. (a) A license holder must prepare, maintain, and preserve the following books, accounts, and other records for at least five years or another period as may be prescribed by rule of the commission:

(1) a record of each money transmission transaction or currency exchange transaction, as applicable;

(2) a general ledger posted in accordance with generally accepted accounting principles containing all asset, liability, capital, income, and expense accounts, unless directed otherwise by the commissioner;

(3) bank statements and bank reconciliation records;

(4) all records and reports required by applicable state and federal law, including the reporting and recordkeeping requirements imposed by the Bank Secrecy Act, the USA PATRIOT ACT,

and Chapter 271, and other federal and state laws pertaining to money laundering, drug trafficking, or terrorist funding; and

(5) any other records required by commission rule or reasonably requested by the commissioner to determine compliance with this chapter.

(b) The records required under this section may be:

(1) maintained in a photographic, electronic, or other similar form; and

(2) maintained at the license holder's principal place of business or another location as may be reasonably requested by the commissioner.

(c) An authorized delegate must prepare, maintain, and preserve the records required by commission rule or reasonably requested by the commissioner.

(d) The records required under this section are subject to inspection by the commissioner under Section 151.601.

(e) The records required under this section and the reports required under Section 151.603 must be in English and the financial information contained in the records and reports must be denominated in United States dollars.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. 483), Sec. 9, eff. June 19, 2015.

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. 2458), Sec. 8, eff. May 24, 2019.

Sec. 151.603. REPORTS. (a) An applicant or license holder shall file a written report with the commissioner not later than the 15th day after the date the applicant or license holder knows or has reason to know of a material change in the information reported in an application or annual report required under Section 151.207(b)(2). The report must describe the change and the anticipated impact of the change on the activities of the applicant or license holder in this state.

(b) A money transmission license holder shall prepare

written reports and statements as follows:

(1) the annual report required by Section [151.207\(b\)\(2\)](#), including an audited unconsolidated financial statement that is dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year;

(2) a quarterly interim financial statement and report regarding the permissible investments required to be maintained under Section [151.309](#) that reflect the license holder's financial condition and permissible investments as of the last day of the calendar quarter to which the statement and report relate and that are prepared not later than the 45th day after the last day of the calendar quarter; and

(3) any other report required by rule of the commission or reasonably requested by the commissioner to determine compliance with this chapter.

(c) A currency exchange license holder shall prepare a written report or statement as follows:

(1) the annual report required by Section [151.207\(b\)\(2\)](#), including a financial statement that may be audited or unaudited and that is dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year;

(2) a quarterly interim financial statement and transaction report that reflects the license holder's financial condition and currency exchange business as of the last day of the calendar quarter to which the statement and report relate and that are prepared not later than the 45th day after the last day of the calendar quarter; and

(3) any other report required by rule of the commission or reasonably requested by the commissioner to determine compliance with this chapter.

(c-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 23, eff. May 24, 2019.

(d) A license holder shall file the statements and reports required under this section with the commissioner as required by this chapter, by commission rule, or as requested by the commissioner.

(e) On written application and for good cause shown, the commissioner may extend the time for preparing or filing a statement or report required under this section.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 15, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. [483](#)), Sec. 10, eff. June 19, 2015.

Acts 2019, 86th Leg., R.S., Ch. 198 (H.B. [2458](#)), Sec. 23(2), eff. May 24, 2019.

Sec. 151.604. EXTRAORDINARY REPORTING REQUIREMENTS. (a) A license holder shall file a written report with the commissioner not later than the 15th day after the date the license holder knows or has reason to know of a material change in the information reported in an application or annual report required under Section [151.207](#)(b)(2). The report must describe the change and the anticipated impact of the change on the license holder's activities in this state.

(b) A license holder must file a written report with the commissioner not later than 24 hours after the license holder knows or has reason to know of:

(1) the filing of a petition by or against the license holder for bankruptcy or reorganization;

(2) the filing of a petition by or against the license holder for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or the making of a general assignment for the benefit of the license holder's creditors;

(3) the institution of a proceeding to revoke or suspend the license holder's license, or to enjoin or otherwise require the license holder to cease and desist from engaging in an activity related to a business activity that, if conducted in this state, would be subject to this chapter, by a state or country in which the license holder engages in business or is licensed;

(4) the felony indictment or conviction of the license holder or a principal of, person in control of, responsible individual of, or authorized delegate of the license holder for an offense identified in Section [151.202\(e\)](#);

(5) the cancellation or other impairment of the license holder's security; or

(6) the inability to meet the license holder's transmission obligations under this chapter for a period of 24 hours or longer.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 988 (H.B. [2134](#)), Sec. 16, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1000 (H.B. [483](#)), Sec. 11, eff. June 19, 2015.

Sec. 151.605. CHANGE OF CONTROL. (a) This section applies to a proposed change of control of a license holder that results in a person or group of persons acting in concert, a "proposed person in control," after consummation of the acquisition transaction, controlling the license holder or a person in control of a license holder.

(b) A person may not directly or indirectly acquire control of a license holder or a person in control of a license holder without the prior written approval of the commissioner, except as provided by this section.

(c) A license holder or proposed person in control shall:

(1) give the commissioner written notice of a proposed change of control at least 45 days before the date the proposed transaction is to be consummated;

(2) request approval of the proposed change of control; and

(3) submit a nonrefundable fee in an amount established by commission rule.

(d) A proposed person in control is subject to the same standards and qualifications that apply to a principal of an

applicant for a new license under this chapter. The commissioner may require the license holder or proposed person in control to provide the same type of information, documentation, and certifications and may conduct the same type of investigation the commissioner requires and conducts in connection with a new license application.

(e) The commissioner shall approve a proposed change of control if the commissioner determines that the proposed person in control has the financial responsibility, financial condition, business experience, competence, character, and general fitness to warrant the belief that the business of the license holder will be conducted in compliance with this chapter, rules adopted under this chapter, and other applicable state and federal law and that the change of control will not jeopardize the public interest.

(f) If the commissioner determines that the proposed person in control fails to meet the qualifications, standards, and requirements of this chapter, the commissioner shall inform the license holder and the proposed person in control in writing that the application is denied and state the reasons for the denial. The license holder or the proposed person in control may appeal the denial by filing a written request for a hearing with the commissioner not later than the 30th day after the date the notice is mailed. A hearing on the denial must be held not later than the 45th day after the date the commissioner receives the written request unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date. The hearing is considered a contested case hearing and is subject to Section [151.801](#).

(g) The following persons are exempt from the requirements of Subsection (a), but the license holder must notify the commissioner not later than the 15th day after the date the change of control becomes effective:

(1) a person that acts as proxy for the sole purpose of voting at a designated meeting of the security holders or holders of voting interests of a license holder or controlling person;

(2) a person that acquires control of a license holder by devise or descent;

(3) a person exempted in the public interest by rule of the commission or by order of the commissioner; and

(4) a person that has previously complied with and received approval under this chapter or that was identified as a person in control in a prior application filed with and approved by the commissioner.

(h) Subsection (b) does not apply to a public offering of securities.

(i) Before filing an application for approval of a proposed change of control, a license holder may submit a written request asking the commissioner to determine whether a person would be considered a proposed person in control of the license holder and whether the requirements of this section apply to the proposed transaction. The request must be accompanied by a fee in an amount established by commission rule and must correctly and fully represent the facts relevant to the person and the proposed transaction. If the commissioner determines that the person would not be a person in control of the license holder for purposes of this section, the commissioner shall advise the license holder in writing that this section does not apply to the proposed person and transaction.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 75 (S.B. [899](#)), Sec. 5, eff. September 1, 2015.

Sec. 151.606. CONFIDENTIALITY. (a) Except as otherwise provided by Subsection (b) or by rule of the commission, all financial information and all other personal information obtained by the commissioner under this chapter through application, examination, investigation, or otherwise, and any related file or record of the department, is confidential and not subject to disclosure.

(b) The commissioner may disclose confidential information if:

(1) the applicant, license holder, or authorized



delegate consents to the release of the information or has published the information contained in the release;

(2) the commissioner finds that release of the information is necessary to protect the public or purchasers or potential purchasers of money services from the license holder or authorized delegate from immediate and irreparable harm;

(3) the information is disclosed to an agency identified in Section [151.105\(a\)](#), in which event the information remains confidential and the agency must take appropriate measures to maintain that confidentiality;

(4) the commissioner finds that release of the information is required for an administrative hearing; or

(5) the commissioner discloses the information to a person acting on behalf of or for the commissioner for regulatory or enforcement purposes, subject to an agreement that maintains the confidentiality of the information.

(c) This section does not prohibit the commissioner from disclosing to the public:

(1) a list of license holders or authorized delegates, including addresses and the names of contact individuals;

(2) the identity of a license holder or authorized delegate subject to an emergency or final order of the commissioner and the basis for the commissioner's action; or

(3) information regarding or included in a consumer complaint against a license holder or authorized delegate.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

#### SUBCHAPTER H. ENFORCEMENT

Sec. 151.701. INJUNCTIVE RELIEF. (a) Whenever it appears that a person has violated, or that reasonable cause exists to believe that a person is likely to violate, this chapter or a rule adopted under this chapter, the following persons may bring an action for injunctive relief to enjoin the violation or enforce compliance with the provision:

(1) the commissioner, through the attorney general;

(2) the attorney general;

(3) the district attorney of Travis County; or

(4) the prosecuting attorney of the county in which the violation is alleged to have occurred.

(b) In addition to the authority granted to the commissioner under Subsection (a), the commissioner, through the attorney general, may bring an action for injunctive relief if the commissioner has reason to believe that a person has violated or is likely to violate an order of the commissioner issued under this chapter.

(c) An action for injunctive relief brought by the commissioner, the attorney general, or the district attorney of Travis County under Subsection (a), or brought by the commissioner under Subsection (b), must be brought in a district court in Travis County. An action brought by a prosecuting attorney under Subsection (a)(4) must be brought in a district court in the county in which all or part of the violation is alleged to have occurred.

(d) On a proper showing, the court may issue a restraining order, an order freezing assets, a preliminary or permanent injunction, or a writ of mandate, or may appoint a receiver for the defendant or the defendant's assets.

(e) A receiver appointed by the court under Subsection (d) may, with approval of the court, exercise all of the powers of the defendant's directors, officers, partners, trustees, or persons who exercise similar powers and perform similar duties.

(f) An action brought under this section may include a claim for ancillary relief, including a claim by the commissioner for costs or civil penalties authorized under this chapter, or for restitution or damages on behalf of the persons injured by the act constituting the subject matter of the action, and the court has jurisdiction to award that relief.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.702. CEASE AND DESIST ORDERS FOR UNLICENSED PERSONS. (a) If the commissioner has reason to believe that an unlicensed person has engaged or is likely to engage in an activity

for which a license is required under this chapter, the commissioner may order the person to cease and desist from the violation until the person is issued a license under this chapter. The commissioner's order is subject to Section 151.709, unless the order is issued as an emergency order. The commissioner may issue an emergency cease and desist order in accordance with Section 151.710 if the commissioner finds that the person's violation or likely violation threatens immediate and irreparable harm to the public.

(b) A cease and desist order under this section may require the unlicensed person to take affirmative action to correct any condition resulting from or contributing to the activity or violation, including the payment of restitution to each resident of this state damaged by the violation.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. 1403), Sec. 9, eff. September 1, 2017.

Sec. 151.703. SUSPENSION AND REVOCATION OF LICENSE. (a) The commissioner must revoke a license if the commissioner finds that:

(1) the net worth of the license holder is less than the amount required under this chapter; or

(2) the license holder does not provide the security required under this chapter.

(b) The commissioner may suspend or revoke a license or order a license holder to revoke the designation of an authorized delegate if the commissioner has reason to believe that:

(1) the license holder has violated this chapter, a rule adopted or order issued under this chapter, a written agreement entered into with the department or commissioner, or any other state or federal law applicable to the license holder's money services business;

(2) the license holder has refused to permit or has not cooperated with an examination or investigation authorized by this

chapter;

(3) the license holder has engaged in fraud, knowing misrepresentation, deceit, or gross negligence in connection with the operation of the license holder's money services business or any transaction subject to this chapter;

(4) an authorized delegate of the license holder has knowingly violated this chapter, a rule adopted or order issued under this chapter, or a state or federal anti-money-laundering or terrorist funding law, and the license holder knows or should have known of the violation and has failed to make a reasonable effort to prevent or correct the violation;

(5) the competence, experience, character, or general fitness of the license holder or an authorized delegate of the license holder, or a principal of, person in control of, or responsible person of a license holder or authorized delegate, indicates that it is not in the public interest to permit the license holder or authorized delegate to provide money services;

(6) the license holder has engaged in an unsafe or unsound act or practice or has conducted business in an unsafe or unsound manner;

(7) the license holder has suspended payment of the license holder's obligations, made a general assignment for the benefit of the license holder's creditors, or admitted in writing the license holder's inability to pay debts of the license holder as they become due;

(8) the license holder has failed to terminate the authority of an authorized delegate after the commissioner has issued and served on the license holder a final order finding that the authorized delegate has violated this chapter;

(9) a fact or condition exists that, if it had been known at the time the license holder applied for the license, would have been grounds for denying the application;

(10) the license holder has engaged in false, misleading, or deceptive advertising;

(11) the license holder has failed to pay a judgment entered in favor of a claimant or creditor in an action arising out of the license holder's activities under this chapter not later

than the 30th day after the date the judgment becomes final or not later than the 30th day after the date the stay of execution expires or is terminated, as applicable;

(12) the license holder has knowingly made a material misstatement or has suppressed or withheld material information on an application, request for approval, report, or other document required to be filed with the department under this chapter; or

(13) the license holder has committed a breach of trust or of a fiduciary duty.

(c) In determining whether a license holder has engaged in an unsafe or unsound act or practice or has conducted business in an unsafe or unsound manner, the commissioner may consider factors that include:

(1) the size and condition of the license holder's provision of money services;

(2) the magnitude of the loss or potential loss;

(3) the gravity of the violation of this chapter or rule adopted or order issued under this chapter;

(4) any action taken against the license holder by this state, another state, or the federal government; and

(5) the previous conduct of the license holder.

(d) The commissioner's order suspending or revoking a license or directing a license holder to revoke the designation of an authorized delegate is subject to Section 151.709, unless the order is issued as an emergency order. The commissioner may issue an emergency order suspending a license or directing a license holder to revoke the designation of an authorized delegate in accordance with Section 151.710 if the commissioner finds that the factors identified in Section 151.710(b) exist.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

Sec. 151.704. SUSPENSION AND REVOCATION OF AUTHORIZED DELEGATE DESIGNATION. (a) The commissioner may suspend or revoke the designation of an authorized delegate if the commissioner has reason to believe that:

(1) the authorized delegate has violated this chapter,

a rule adopted or order issued under this chapter, a written agreement entered into with the commissioner or the department, or any other state or federal law applicable to a money services business;

(2) the authorized delegate has refused to permit or has not cooperated with an examination or investigation under this chapter;

(3) the authorized delegate has engaged in fraud, knowing misrepresentation, deceit, gross negligence, or an unfair or deceptive act or practice in connection with the operation of the delegate's business on behalf of the license holder or any transaction subject to this chapter;

(4) the competence, experience, character, or general fitness of the authorized delegate, or a principal of, person in control of, or responsible person of the authorized delegate, indicates that it is not in the public interest to permit the authorized delegate to provide money services;

(5) the authorized delegate has engaged in an unsafe or unsound act or practice or conducted business in an unsafe and unsound manner;

(6) the authorized delegate, or a principal or responsible person of the authorized delegate, is listed on the specifically designated nationals and blocked persons list prepared by the United States Department of the Treasury as a potential threat to commit terrorist acts or to fund terrorist acts; or

(7) the authorized delegate, or a principal or responsible person of the authorized delegate, has been convicted of a state or federal anti-money-laundering or terrorist funding law.

(b) In determining whether an authorized delegate has engaged in an unsafe or unsound act or practice or conducted business in an unsafe or unsound manner, the commissioner may consider factors that include:

(1) the size and condition of the authorized delegate's provision of money services;

(2) the magnitude of the loss or potential loss;

(3) the gravity of the violation of this chapter or rule adopted or order issued under this chapter;

(4) any action taken against the authorized delegate by this state, another state, or the federal government; and

(5) the previous conduct of the authorized delegate.

(c) The commissioner's order suspending or revoking the designation of an authorized delegate is subject to Section 151.709, unless the order is issued as an emergency order. The commissioner may issue an emergency order suspending the designation of an authorized delegate in accordance with Section 151.710 if the commissioner finds that the factors identified in Section 151.710(b) exist.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

Sec. 151.705. CEASE AND DESIST ORDERS FOR LICENSE HOLDERS OR AUTHORIZED DELEGATES. (a) The commissioner may issue an order to cease and desist if the commissioner finds that:

(1) an action, violation, or condition listed in Section 151.703 or 151.704 exists with respect to a license holder or authorized delegate; and

(2) a cease and desist order is necessary to protect the interests of the license holder, the purchasers of the license holder's money services, or the public.

(b) A cease and desist order may require a license holder or authorized delegate to cease and desist from the action or violation or to take affirmative action to correct any condition resulting from or contributing to the action or violation, and the requirements of the order may apply to a principal or responsible person of the license holder or authorized delegate.

(c) The cease and desist order is subject to Section 151.709, unless the order is issued as an emergency order. The commissioner may issue an emergency cease and desist order in accordance with Section 151.710 if the commissioner finds that the factors identified in Section 151.710(b) exist.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. [1403](#)), Sec. 10, eff. September 1, 2017.

Sec. 151.706. CONSENT ORDERS. (a) The commissioner may enter into a consent order at any time with a person to resolve a matter arising under this chapter or a rule adopted or order issued under this chapter.

(b) A consent order must be signed by the person to whom the order is issued or by the person's authorized representative and must indicate agreement with the terms contained in the order. However, a consent order may provide that the order does not constitute an admission by a person that this chapter or a rule adopted or order issued under this chapter has been violated.

(c) A consent order is a final order and may not be appealed. Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.707. ADMINISTRATIVE PENALTY. (a) After notice and hearing, the commissioner may assess an administrative penalty against a person that:

(1) has violated this chapter or a rule adopted or order issued under this chapter and has failed to correct the violation not later than the 30th day after the date the department sends written notice of the violation to the person;

(2) if the person is a license holder, has engaged in conduct specified in Section [151.703](#);

(3) has engaged in a pattern of violations; or

(4) has demonstrated wilful disregard for the requirements of this chapter, the rules adopted under this chapter, or an order issued under this chapter.

(b) A violation corrected after a person receives written notice from the department of the violation may be considered for purposes of determining whether a person has engaged in a pattern of violations under Subsection (a)(3) or demonstrated wilful disregard under Subsection (a)(4).

(c) The amount of the penalty may not exceed \$5,000 for each



violation or, in the case of a continuing violation, \$5,000 for each day that the violation continues. Each transaction in violation of this chapter and each day that a violation continues is a separate violation.

(d) In determining the amount of the penalty, the commissioner shall consider factors that include the seriousness of the violation, the person's compliance history, and the person's good faith in attempting to comply with this chapter, provided that if the person is found to have demonstrated wilful disregard under Subsection (a)(4), the trier of fact may recommend that the commissioner impose the maximum administrative penalty permitted under Subsection (c).

(e) A hearing to assess an administrative penalty is considered a contested case hearing and is subject to Section [151.801](#).

(f) An order imposing an administrative penalty after notice and hearing becomes effective and is final for purposes of collection and appeal immediately on issuance.

(g) The commissioner may collect an administrative penalty assessed under this section:

(1) in the same manner that a money judgment is enforced in court; or

(2) if the penalty is imposed against a license holder or a license holder's authorized delegate, from the proceeds of the license holder's security in accordance with Section [151.308](#)(e).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 428 (S.B. [1403](#)), Sec. 11, eff. September 1, 2017.

Sec. 151.708. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) intentionally makes a false statement, misrepresentation, or certification in a record or application filed with the department or required to be maintained under this chapter or a rule adopted or order issued under this chapter, or

intentionally makes a false entry or omits a material entry in the record or application; or

(2) knowingly engages in an activity for which a license is required under Subchapter D or F without being licensed under this chapter.

(b) An offense under this section is a felony of the third degree.

(c) An offense under this section may be prosecuted in Travis County or in the county in which the offense is alleged to have been committed.

(d) Nothing in this section limits the power of the state to punish a person for an act that constitutes an offense under this or any other law.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 75 (S.B. [899](#)), Sec. 6, eff. September 1, 2015.

Sec. 151.709. NOTICE, HEARING, AND OTHER PROCEDURES FOR NONEMERGENCY ORDERS. (a) This section applies to an order issued by the commissioner under this subchapter that is not an emergency order.

(b) An order to which this section applies becomes effective only after notice and an opportunity for hearing. The order must:

(1) state the grounds on which the order is based;

(2) to the extent applicable, state the action or violation from which the person subject to the order must cease and desist or the affirmative action the person must take to correct a condition resulting from the violation or that is otherwise appropriate;

(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address;

(4) state the effective date of the order, which may not be before the 21st day after the date the order is delivered or mailed; and

(5) include a notice that a person may file a written request for a hearing on the order with the commissioner not later than the 20th day after the date the order is delivered or mailed.

(c) Unless the commissioner receives a written request for hearing from the person against whom the order is directed not later than the 20th day after the date the order is delivered or mailed, the order takes effect as stated in the order and is final against and nonappealable by that person from that date.

(d) A hearing on the order must be held not later than the 45th day after the date the commissioner receives the written request for the hearing unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date.

(e) An order that has been affirmed or modified after a hearing becomes effective and is final for purposes of enforcement and appeal immediately on issuance. The order may be appealed to the district court of Travis County as provided by Section [151.801\(b\)](#).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. [2218](#)), Sec. 1, eff. September 1, 2005.

Sec. 151.710. REQUIREMENTS AND NOTICE AND HEARING PROCEDURES FOR EMERGENCY ORDERS. (a) This section applies to an emergency order issued by the commissioner under this subchapter.

(b) The commissioner may issue an emergency order, without prior notice and an opportunity for hearing, if the commissioner finds that:

(1) the action, violation, or condition that is the basis for the order:

(A) has caused or is likely to cause the insolvency of the license holder;

(B) has caused or is likely to cause the substantial dissipation of the license holder's assets or earnings;

(C) has seriously weakened or is likely to seriously weaken the condition of the license holder; or

(D) has seriously prejudiced or is likely to seriously prejudice the interests of the license holder, a

purchaser of the license holder's money services, or the public; and

(2) immediate action is necessary to protect the interests of the license holder, a purchaser of the license holder's money services, or the public.

(c) In connection with and as directed by an emergency order, the commissioner may seize the records and assets of a license holder or authorized delegate that relate to the license holder's money services business.

(d) An emergency order must:

(1) state the grounds on which the order is based;

(2) advise the person against whom the order is directed that the order takes effect immediately, and, to the extent applicable, require the person to immediately cease and desist from the conduct or violation that is the subject of the order or to take the affirmative action stated in the order as necessary to correct a condition resulting from the conduct or violation or as otherwise appropriate;

(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address; and

(4) include a notice that a person may request a hearing on the order by filing a written request for hearing with the commissioner not later than the 15th day after the date the order is delivered or mailed.

(e) An emergency order takes effect as soon as the person against whom the order is directed has actual or constructive knowledge of the issuance of the order.

(f) A license holder or authorized delegate against whom an emergency order is directed must submit a written certification to the commissioner, signed by the license holder or authorized delegate, and their principals and responsible individuals, as applicable, and each person named in the order, stating that each person has received a copy of and has read and understands the order.

(g) Unless the commissioner receives a written request for a hearing from a person against whom an emergency order is directed

not later than the 15th day after the date the order is delivered or mailed, the order is final and nonappealable as to that person on the 16th day after the date the order is delivered or mailed.

(h) A request for a hearing does not stay an emergency order.

(i) A hearing on an emergency order takes precedence over any other matter pending before the commissioner, and must be held not later than the 10th day after the date the commissioner receives the written request for hearing unless the administrative law judge extends the period for good cause or the parties agree to a later hearing date.

(j) An emergency order that has been affirmed or modified after a hearing is final for purposes of enforcement and appeal. The order may be appealed to the district court of Travis County as provided in Section 151.801(b).

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.

#### SUBCHAPTER I. ADMINISTRATIVE PROCEDURES AND JUDICIAL REVIEW

Sec. 151.801. ADMINISTRATIVE PROCEDURES. (a) All administrative proceedings under this chapter must be conducted in accordance with Chapter 2001, Government Code, and Title 7, Chapter 9, Texas Administrative Code.

(b) A person affected by a final order of the commissioner issued under this chapter after a hearing may appeal the order by filing a petition for judicial review in a district court of Travis County. A petition for judicial review filed in the district court under this subsection does not stay or vacate the appealed order unless the court, after notice and hearing, specifically stays or vacates the order.

Added by Acts 2005, 79th Leg., Ch. 1099 (H.B. 2218), Sec. 1, eff. September 1, 2005.